

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

CLARA S. MITCHELL,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 3:05-CV-1210-WKW
)	
DEBBIE A. SWEET, et al.,)	
)	
Defendants.)	

JOINT MOTION OF DISMISSAL

Comes now third - party defendant Michael O. Leavitt, Secretary of the Department of Health and Human Services (HHS), by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, defendant State Farm Mutual Automobile Insurance Company (State Farm), by and through their attorney of record, S. Allen Martin, Esq., defendant Debbie A. Sweet, by and through her attorney of record, Hunter C. Carroll, Esq., and plaintiff, Clara S. Mitchell, by and through her attorney of record, Roger L. Lucas, Esq., and jointly move for the dismissal of the third - party defendant HHS, and as grounds, state as follows:

1. Third - party defendant HHS was added to this lawsuit on motion of defendant State Farm pursuant to Rule 19(a), Fed. R.Civ.Proc., due to a subrogation interest HHS maintained in any insurance proceeds paid by defendant State Farm to the plaintiff.

2. Since the joinder, defendant HHS has decided that it will not pursue any subrogation interest(s) that it has, or may have, in the proceeds to be distributed by defendant State Farm in this case and this case alone.

WHEREFORE, premises considered, the parties jointly request that defendant HHS be dismissed.

Respectfully submitted this 19th day of September, 2007.

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CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will provide notice to all CM/ECF participants in this case.

s/R. Randolph Neeley

Assistant United States Attorney